



National LP-Gas Association • 1301 West 22nd Street • Oak Brook, Illinois 60521 • 312-986-4800

RSRA-1984-12577-1

Nov. 4

177493

October 28, 1986

File: Tdot-1419

Mr. Alan I. Roberts
Office of Hazardous Materials Regulation
U.S. Department of Transportation
Washington, DC 20590

Dear Mr. Roberts:

We understand that DOT has issued an interpretation that a LP-gas farm cart is classified as a cargo tank. NLPGA disagrees with this interpretation and requests reconsideration of the interpretation. It is requested that this letter be considered a petition for rule making under Section 106.31.

The National LP-Gas Association (NLPGA) is the national trade association of the LP-gas industry with a membership of about 4,100, including 47 affiliated state and regional associations representing all 50 states. Farm carts are an important part of the agriculture industry; thus our members have a direct interest in how these containers are treated in the Hazardous Materials Regulations.

These tanks have a maximum size of 1,200 gallons water capacity, a limitation imposed by NFPA 58 "Storage and Handling of Liquefied Petroleum Gases". This standard is an American National Standard; it is used as the basis of regulations by virtually all of the states, is published by the National Fire Protection Association, Quincy, Massachusetts, and is referenced in several sections of CFR Title 49.

The specific provisions in NFPA 58 for these vehicles are in paragraphs 1-7 and 6-4.3; of course, the general provisions of the standard (a copy of which is enclosed for your information) also apply. In design and use, these farm carts are essentially identical to anhydrous ammonia nurse tanks.

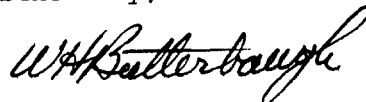
Some of our members are not certain that these containers are subject to the Hazardous Materials Regulations in the first place; but if they are, we believe that whatever they are in the view of the Regulations, they most definitely are not a cargo tank in the same sense as a MC-331 tank truck. A cargo tank for LP-gas service must be equipped with certain valves and accessories under the Regulations in addition to specification construction requirements that are far beyond what is necessary for these farm carts. Also, it should be noted that the safety experience with these containers, as presently designed and equipped under NFPA 58, has been excellent and that there is no need to impose additional restrictions on the construction or operation of these containers.

Mr. Alan I Roberts
October 27, 1986
Page 2

We believe the best solution to the mutual concerns of DOT and the LP-gas industry for improved safety in the transportation of propane (LP-gas) would be to adopt specific provisions in the Regulations for these containers, similar to the present provisions for anhydrous ammonia nurse tanks (173.315(m)). In this manner, appropriate design and construction guidelines would then be established and uniformity of enforcement would be provided in those instances where these containers are moved over public roads. To that end, enclosed is a recommended addition to Section 173.315 of the Hazardous Materials Regulations. This proposal has been adapted from the current section 173.315(m).

In view of the complexities surrounding these containers, we would be glad to meet with you or your representatives, to discuss this matter further. Please contact either the undersigned or Mr. Daniel Myers, our General Counsel in Washington (979-3563), if you require any additional information or wish to set up a meeting.

Sincerely,



W. H. Butterbaugh, CAE
Assistant Vice President
Technical Services

WHB/ph
cc: D. N. Myers

(XX) A cargo tank (commonly known as a farm cart and considered an implement of husbandry) transporting liquefied petroleum gas, and operated by a private carrier exclusively for agricultural purposes does not have to meet the specification requirements of Part 178 of this subchapter if it:

(1) has a minimum design pressure of 250 psig and meets the requirements of the edition of the ASME code in effect at the time it was manufactured and is marked accordingly;

(2) is painted white or aluminum;

(3) has a capacity of 1,200 gallons or less;

(4) is loaded to appropriate filling densities as provided in 173.315(b) of this subchapter for liquefied petroleum gas;

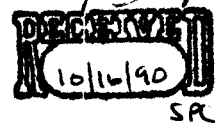
(5) conforms to NFPA pamphlet 58;

(6) is securely mounted on a farm or similar wagon; and

(7) is operated in conformance with the requirements of Part 172 of this subchapter except that shipping papers are not required.



National PROPANE GAS Association



1600 Eisenhower Lane • Suite 100 • Lisle, IL 60532 • (708) 515-0600

October 11, 1990
File: Tbpt-1448

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Mr. Alan I. Roberts
Office of Hazardous Materials Transportation
Research and Special Programs Administration
US Department of Transportation
400 Seventh Street S.W.
Washington, DC 20590

Dear Mr. Roberts:

The National Propane Gas Association (NPGA) recommends amendment of the DOT Hazardous Materials Regulations (HMR) to provide specific provisions for the transportation of propane/liquefied petroleum gas by a cart-mounted tank identical in function and very similar in appearance to nurse tanks used for local transportation of anhydrous ammonia. In fact, many anhydrous ammonia nurse tanks have been used for quite a number of years to transport propane for farm use when not needed for the fertilizer season.

NPGA had earlier submitted a petition for rule making recommending adaptation of the specific provisions in the Hazardous Materials Regulations for anhydrous ammonia nurse tanks (49 CFR 173.315(m)) for these LP-gas farm carts. DOT subsequently requested additional information regarding these containers. This petition for rule making now presented is in response to that request for additional information and replaces the earlier petition.

NPGA is the national trade association of the LP-gas industry with a membership of about 4,100, including 43 affiliated state and regional associations, representing all 50 states. Three-fourths of our member companies are propane marketers to farmers and other rural residents and to various industrial accounts, all of which use these propane farm carts/movable fuel tenders to supply fuel to various applications. Thus, our members have a very direct and concerned interest for sound, sensible, effective regulations for the transportation and use of farm carts and movable fuel tenders.

The DOT Office of Hazardous Materials Transportation has issued an internal interpretation that propane farm carts are cargo tanks (tank trucks) and should comply with present DOT/HMR requirements for non-specification propane cargo tanks (49 CFR 173.315(k)). As a result of this interpretation, at least two state regulatory authorities have ruled that propane farm carts must be transported to the point of use with the wheels removed; other states are also experiencing varying degrees of difficulty resulting from this DOT interpretation. Farm carts, when transported over highways, have much more in common with consumer tanks being moved between a bulk plant and the consumer location than they do with cargo tanks.

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Farm carts are termed movable fuel tenders in NFPA 58 and have various industrial applications in addition to their use on farms to supply fuel to grain dryers, irrigation pumps and other temporary applications; an example of such an industrial application would be to supply fuel to roofing operations. NFPA 58 is titled "Storage and Handling of Liquefied Petroleum Gases" and is published by the National Fire Protection Association (NFPA), Quincy, Massachusetts. It is an American National Standard and as such is used by virtually all of the states as the basis for their LP-gas regulations. The development of the enclosed recommended revisions to the Hazardous Materials Regulations disclosed the need for further revisions of the NFPA 58 provisions for movable fuel tenders and farm carts. A copy of the 1989 edition of NFPA 58 is enclosed along with a copy of the changes to the standard in this regard recommended to NFPA by NPGA. These proposed changes are presently in the public review and comment phase of the NFPA process for consideration of proposed changes to NFPA standards. Action on these proposals will occur at the NFPA Fall 1991 Meeting.

Further, NPGA strongly objects to the application of 173.315(k) to these farm cart vehicles. That specific paragraph was adopted by DOT as an amendment to the Hazardous Materials Regulations in direct response to a petition for rule making by this Association regarding a very considerable number of local delivery trucks composed of one, possibly two, chassis mounted tank(s). These vehicles were built for intrastate service prior to the time that the states (where these vehicles were domiciled) had adopted the HMR as state regulations. These vehicles were constructed substantially identically to vehicles marked MC-330, and later MC-331; for a variety of reasons, however, these vehicles were not marked MC-330 or MC-331, as appropriate. As a consequence, 173.315(k) applies only to these particular chassis-mounted cargo tanks; application of this provision to any other type of vehicle is simply and thoroughly inappropriate.

It should be noted that the safety experience with farm carts, as presently designed and equipped under NFPA 58, has been excellent - these vehicles have been used in agriculture alone for well over 30 years, in addition to their other uses. There is no need based on actual operating experience to impose such stringent additional restrictions on the construction of these containers as would occur with the subjection of farm carts to the provisions of 173.315(k).

By no means should it be inferred that these farm carts are without appropriate means of protection and containment of the lading - far from it. Propane farm cars are equipped with fixed liquid level gauges used in the same manner and for the same purpose as gauges identical in function on propane tank trucks/tank motor vehicles; with internal excess flow valves that automatically shut off the flow of fuel should exterior valves be damaged or inoperative; and with pressure relief valves set to the same requirements as required for those on propane tank motor vehicles. Likewise, the tank itself is an ASME Section VIII, Division 1 pressure vessel -- as is a MC-331 cargo tank.

October 11, 1990

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As stated earlier, when farm carts/movable fuel tenders are transported over highways, they have much more in common with consumer tanks being moved between a bulk plant and the consumer location than they do with cargo tanks. In accordance with that similarity, NPGA recommends that farm carts contain no more than 5 percent liquid when being moved to or from a bulk plant; farm carts being moved between fields could contain more than 5 percent, but we recommend that the movement be by the shortest practical route in such instances. Though there is great similarity between the transportation of farm carts on the one hand and consumer tanks on the other, we believe the provisions for farm carts should be separate and apart from the consumer tank provisions set forth in the present 173.315(j). The enclosed recommended change to establish a new paragraph under 173.315 are therefore based upon the provisions of 173.315(j) but otherwise leave the provisions of that paragraph intact.

We would be glad to meet with representatives of OHMT to discuss this petition for rule making further if there are any questions or comments. We would appreciate the expedient attention of your office to this matter. The situation with the respective states is growing more and more critical in providing engine and heating fuel for various agricultural and other applications in an efficient and economical manner because of the restrictions on the movement of these containers.

Transportation of propane in nurse tanks under the conditions presented in this petition is at least as safe as the use of these same containers for the transportation of anhydrous ammonia. We strongly believe that it makes absolutely no sense to permit the one and prohibit or unduly restrict the other.

Sincerely,

W. H. Butterbaugh, CAE
Assistant Vice President
Technical Services

Enclosure

National Propane Gas Association

Proposed Amendment to DOT Hazardous Materials Regulations

173.315(xxxxx) A cargo tank commonly known as a farm cart and considered an implement of husbandry or a movable fuel tender transporting liquefied petroleum gas and operated by a private carrier exclusively for agricultural or other industrial purposes does not have to meet the specification requirements of Part 178 of this subchapter if it:

- (1) has a minimum design pressure of 250 psig and meets the requirements of the edition of the ASME CODE in effect at the time it was manufactured and is marked accordingly;
- (2) is painted white, aluminum or other light reflecting color;
- (3) has a water capacity of 1,200 gallons or less;
- (4) is loaded to appropriate filling limits as provided in 173.315(b) of this subchapter for liquefied petroleum gas;
- (5) conforms to NFPA Pamphlet No. 58;
- (6) is securely mounted on a farm or similar wagon;
- (7) is operated in conformance with the requirements of Part 172 of this subchapter except that shipping papers are not required; and
- (8) movement of a loaded farm cart over public roads is limited to movement between one field and another and then only by the shortest practical distance on the public roads. Movement of a farm cart between point of use in the field and propane distribution facilities is limited to a tank containing no more than 5 percent of its water capacity.



National LP-Gas Association - 1301 West 22nd Street - Oak Brook, Illinois 60521 - 312-573-4800

May 22, 1987

File: Tdot-1419

Mr. Thomas J. Charlton
U.S. Department of Transportation
400 Seventh St. SW
Washington, DC 20590

Dear Mr. Charlton:

This is in reference to your March 27 letter which denied a NLPGA petition for rule making regarding LP-gas farm carts. Your letter referenced 173.315(k) as the basis for this denial and compared these farm carts to the cargo tanks covered by that paragraph. It appears that DOT perceives these farm carts to be a tank motor vehicle (which they are not).

Both in construction and in use, LP-gas farm carts are essentially identical to anhydrous ammonia nurse tanks which are covered in the Hazardous Materials Regulations in 173.315(m). They are an entirely different kind of LP-gas container than a MC-330 or MC-331 tank motor vehicle or the non-specification tank motor vehicle referred to in 173.315(k).

- they are not self propelled, but are towed by another vehicle;
- they are used solely on private property;
- they have a maximum capacity of 1200 gallons w.c.;
- they are an ASME tank mounted on a four wheel farm trailer;
- they are an implement of husbandry just as are anhydrous ammonia nurse tanks; and
- they are nearly always re-filled at the farm from a LP-gas tank motor vehicle.

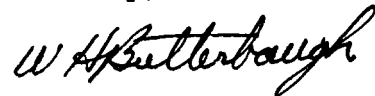
LP-gas farm carts are required to be ASME tanks under the provisions of NFPA 58 (see sections 1-7 and 6-4 in the enclosed copy of NFPA 58). These tanks are constructed and designed for a specific purpose and use - to provide a readily portable, properly designed and outfitted tank for temporary storage of LP-gas under controlled conditions as fuel for farm implements. It would be more logical and reasonable to consider these tanks as portable tanks. NFPA 58 is an American National Standard, is used as the basis of LP-gas safety regulations in virtually all of the states and is referenced in several instances in the Hazardous Materials Regulations.

LP-gas farm carts are identical to anhydrous ammonia nurse tanks; in fact, they are used interchangeably as needed to transport either product. To permit the one service and to prohibit the other is both inconsistent and indefensible.

Mr. Thomas J. Charlton
May 21, 1987
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All things considered, and on a logical basis, NLPGA believes that the present conditions in the Regulations that apply to anhydrous ammonia nurse tanks should be applied to LP-gas farm carts - maybe we should rename them LP-gas nurse tanks. We appreciate the fact that DOT may be unfamiliar with these farm carts. We would be glad to meet with you to further discuss these vehicles; we would also be glad to arrange for such a unit to be available for inspection. We have enclosed a suggested text for a new 173.315(n) to provide appropriate provisions under the Regulations for these vehicles, using 173.315(m) as a guide.

Sincerely,

A handwritten signature in cursive script, reading "W. H. Butterbaugh".

W. H. Butterbaugh, CAE
Assistant Vice President
Technical Services

Enclosures
WHB/ph

173.315

(XX) A cargo tank (commonly known as a nurse tank and considered an implement of husbandry or a moveable fuel storage tender) transporting liquefied petroleum gas, and operated by a private carrier exclusively for agricultural or other industrial purposes does not have to meet the specification requirements of Part 178 of this subchapter if it:

(1) has a minimum design pressure of 250 psig and meets the requirements of the edition of the ASME code in effect at the time it was manufactured and is marked accordingly;

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US Department
of Transportation

**Research and
Special Programs
Administration**

DA
400 Seventh Street, N.W.
Washington, D.C. 20590

January 12, 1987

W. H. Butterbaugh
Assistant Vice President
Technical Services
National LP-Gas Assoc.
1301 West 22nd St.
Oak Brook, Ill. 60521

Dear Mr. Butterbaugh:

Thank you for your petition for rule change of the Hazardous Materials Regulations dated October 28, 1986.

The petition has been assigned P-1006 . If you should write to us regarding this petition, please make reference to the petition number.

Sincerely,

Sandra D. Cureton
Chief, Dockets Unit
Exemptions and Approvals Division



National LP-Gas Association • 1301 West 22nd Street • Oak Brook, Illinois 60521 • 312-986-4800

Nov 4

October 28, 1986

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These tanks have a maximum size of 1,200 gallons water capacity, a limitation imposed by NFPA 58 "Storage and Handling of Liquefied Petroleum Gases". This standard is an American National Standard; it is used as the basis of regulations by virtually all of the states, is published by the National Fire Protection Association, Quincy, Massachusetts, and is referenced in several sections of CFR Title 49.

The specific provisions in NFPA 58 for these vehicles are in paragraphs 1-7 and 6-4.3; of course, the general provisions of the standard (a copy of which is enclosed for your information) also apply. In design and use, these farm carts are essentially identical to anhydrous ammonia nurse tanks.

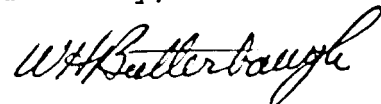
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In view of the complexities surrounding these containers, we would be glad to meet with you or your representatives, to discuss this matter further. Please contact either the undersigned or Mr. Daniel Myers, our General Counsel in Washington (979-3563), if you require any additional information or wish to set up a meeting.

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Assistant Vice President
Technical Services

WHB/ph
cc: D. N. Myers

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US Department
of Transportation
**Research and
Special Programs
Administration**

400 Seventh Street, N.W.
Washington, D.C. 20004

January 12, 1987

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Technical Services
National LP-Gas Assoc.
1301 West 22nd St.
Oak Brook, Ill. 60521

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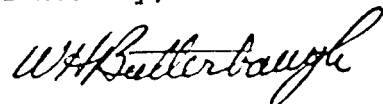
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W. H. Butterbaugh, CAE
Assistant Vice President
Technical Services

WHB/ph
cc: D. N. Myers

173.315

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